

Steele, Alan

From: Nickol, Gary [Gary.Nickol@USPTO.GOV]
Sent: Tuesday, November 16, 2004 2:53 PM
To: Steele, Alan
Subject: 09/408905

Attachments: 09408905.doc



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KB)

Dr. Steele:

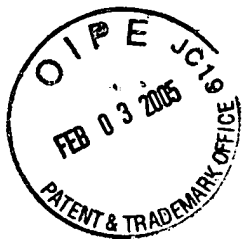
Per our conversation today, attached is my suggested amendment to claim 1.

Thank-you for your consideration,

Gary

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09/408,905
Suggested Amendment.

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TECH CENTER 1600/2900

1. (Amended) A method for treating myocardial infarction comprising: administering to a subject in need of such treatment an Akt molecule in an amount effective to inhibit cardiac tissue necrosis in the subject wherein said molecule is a polypeptide or fragment thereof encoded by a nucleic acid sequence comprising SEQ ID NO:1 and wherein said polypeptide or fragment thereof maintains serine threonine kinase activity and or is capable of inhibiting apoptotic cell death.

Problem: an "Akt" molecule would invoke a rejection under 112, 1st paragraph, written description. The specification provides a generic definition of Akt (page 7, line 26) as encompassing nucleic acids and polypeptides. What is needed is a more defined definition of what particular genus of polypeptides & nucleic acids was in the possession of applicants at the time the invention was made.

The suggested claim language provides all variant codons that encode the polypeptide of SEQ ID NO:1 while also providing any fragment thereof with specific functional activity such that one of skill in the art would not expect substantial variation among species encompassed within the genus.